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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PENDLETON DIVISION

**ESTATE OF SUSAN K. DICK BY AND
THROUGH PERSONAL
REPRESENTATIVE BOBBY J. DICK,**

Case No.

Plaintiff,

**COMPLAINT
ERISA, 29 U.S.C. § 1132 (a)(1)(B)**

v.

**DESERET MUTUAL BENEFIT
ADMINISTRATORS,**

Defendant.

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INTRODUCTION

1.

This action is brought on behalf of plaintiff, Estate of Susan K. Dick by and through Personal Representative Bobby J. Dick, pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001, et seq. ("ERISA"). Plaintiff seeks to recover medical benefits pursuant to the terms of an employee welfare benefit plan entitled "Deseret Value Plan under the Deseret Healthcare Employee Benefits Plan" (the "Plan") and under 29 U.S.C. §1132(a)(1)(B). Plaintiff seeks these remedies, plus prejudgment interest, postjudgment interest, costs, and attorney fees, pursuant to 29 U.S.C. § 1132(g)(1).

JURISDICTION AND VENUE

2.

Jurisdiction is conferred on this court by ERISA, 29 U.S.C. § 1132(e)(1) and (f), which give the district courts jurisdiction to hear civil actions brought to recover benefits due under the terms of an employee welfare benefit plan.

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3.

Venue is proper in this District Court, pursuant to ERISA, 29 U.S.C. § 1132(e)(2) and 28 U.S.C. § 1391.

THE PARTIES

4.

At all times material herein, plaintiff was a resident of the state of Oregon.

5.

At all times material herein, plaintiff was a participant and/or beneficiary under the Plan by and through her spouse Bobby J. Dick's employment with Agrinorthwest.

6.

The Plan is an employee welfare benefit plan specifically covered under ERISA, 29 U.S.C. § 1002(2)(A), and an "employee benefit plan" as defined by 29 U.S.C. § 1002(3), under which plaintiff is a "beneficiary," as defined by 29 U.S.C. § 1002(8).

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7.

At all times material herein, defendant Deseret Mutual Benefit Administrators (“DMBA”) is the plan sponsor of the Plan, within the meaning of ERISA, 29 U.S.C. § 1002(16)(B), and the plan administrator of the Plan, within the meaning of ERISA, 29 U.S.C. § 1002(16)(A).

8.

At all times material herein, defendant DMBA has the sole discretion to interpret the terms of the Plan, make factual determinations, and decide participants’ eligibility for benefits under the Plan.

STATEMENT OF FACTS

9.

On or around July 9, 2020, July 16, 2020, and July 30, 2020, plaintiff’s medical providers submitted to defendant DMBA requests for payment of plaintiff’s medical expenses under the Plan.

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10.

By letter dated December 18, 2020, defendant informed plaintiff of its final decision upholding the denial of medical benefits to cover the expenses described in Paragraph 9, above.

11.

Defendant's decision denying medical benefits for the expenses described in Paragraph 9, above, under the Plan is erroneous, arbitrary, capricious, and an abuse of discretion.

12.

Plaintiff has completed all steps required prior to the filing of this complaint under the Plan and ERISA, including an internal appeal of the denial of medical benefits pursuant to 29 U.S.C. § 1133.

13.

29 U.S.C. § 1132(a)(1)(B) authorizes plaintiff to recover benefits due under the

terms of the Plan, to enforce plaintiff's rights under the terms of the Plan, and/or to clarify plaintiff's right to future benefits under the terms of the Plan.

14.

By denying payment of medical benefits for the medical expenses described in Paragraph 9, above, defendant has violated and continues to violate ERISA, 29 U.S.C. § 1132 (a)(1)(B).

15.

As a result of the denial of the medical benefits due and owing plaintiff under the terms of the Plan, plaintiff has incurred medical expenses in the amount of \$229,173.27.

16.

As a result of the denial of plaintiff's short term disability benefits under the Plan, plaintiff has incurred attorney fees and costs, pursuant to 29 U.S.C. § 1132(g)(1).

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WHEREFORE, plaintiff prays that plaintiff have and recover judgment in plaintiff's favor and against defendant as follows:

- (1) For medical benefits in the total amount of \$229,173.27, pursuant to 29 U.S.C. § 1132(a)(1)(B);
- (2) For prejudgment and postjudgment interest;
- (3) For an award of attorney fees and costs under 29 U.S.C. § 1132(g)(1) and the facts and circumstances of this case; and
- (4) For such other relief as this court deems just and proper.

DATED this 13th day of August, 2021.

SAMUEL T. STANKE, ATTORNEY AT LAW, LLC

/s/ Samuel T. Stanke

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Attorney for Plaintiff

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